

811.1A Detention hearing.

1. When a defendant is awaiting sentencing after conviction for a felony or is pursuing an appeal in such a case following sentencing, and the defendant would otherwise be eligible to be admitted to bail under this chapter, but it appears by clear and convincing evidence that if released the defendant is likely to pose a danger to another person or to the property of others, the defendant may be detained under the authority of this section and in the manner provided in subsection 2.

2. The following procedures shall apply to a detention hearing:

a. The prosecuting attorney may initiate a detention hearing by a verified ex parte written motion. Upon such motion, the district court may issue a warrant for the immediate arrest of the defendant, if the defendant is not in custody.

b. The defendant shall be brought before the district court within twenty-four hours after arrest, or if the defendant is in custody, the defendant shall be brought before the district court within twenty-four hours of the prosecuting attorney's filing of the motion. The detention hearing shall be held within seventy-two hours of the defendant's arrest, or if the defendant is in custody, the detention hearing shall be held within seventy-two hours of the filing of the motion.

c. The defendant shall be entitled to representation by counsel, including appointed counsel if indigent, and shall be entitled to the right of cross-examination and to present information, to testify, and to present witnesses in the defendant's own behalf, but shall not be entitled to being admitted to bail.

d. Testimony of the defendant given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, except that such testimony shall be admissible in proceedings under section 811.2, subsection 8, and section 811.8, and in perjury proceedings.

e. Appeals from orders of detention may be taken in the manner provided under section 811.2, subsection 7.

f. If the trial court issues an order of detention, the order shall be accompanied by a written finding of fact and the reasons for the detention order.

g. For the purposes of such proceedings, the trial court is not divested of jurisdiction by the filing of a notice of appeal.

2004 Acts, ch 1084, §4

Referred to in §13B.4, 331.653, 815.9, 815.10